GOVERNMENT OF MYSORE

LEGISLATIVE DEPARTMENT

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MYSORE ACT No. 12 OF 1962.

THE MYSORE MONEY-LENDERS ACT, 1961.

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Arrangement of Sections.

Sections. **Preamble.**

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MYSORE ACT No. 12 OF 1962.

(*First published in the* Mysore Gazette *on the Twenty-ninth Day of March 1962.*)

THE MYSORE MONEY-LENDERS ACT, 1961.

(*Received the assent of the President on the Eighth day of March 1962.*)

An Act to regulate the transactions of money-lending in the State of Mysore.

WHEREAS it is expedient to make better provision for the regulation and control of transactions of money-lending in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Twelfth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Mysore Money-lenders Act, 1961.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may by notification, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) "bank" means a banking company as defined in the Banking Companies Act, 1949 (Central Act X of 1949), and includes the State Bank of India and any other banking institution notified under section 51 of the said Act;

(2) "business of money-lending" means the business of advancing loans whether or not in connection with or in addition to any other business;

(3) "capital" means a sum of money which a money-lender invests in the business of money-lending;

(4) "company" means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956);

(5) "co-operative society" means a society registered or deemed to have been registered under the Mysore Co-operative Societies Act, 1959 (Mysore Act 11 of 1959);

(6) "interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(7) "licence" means a licence granted under this Act;

(8) "licence fee" means the fee payable in respect of a licence;

(9) "loan" means an advance at interest whether of money or in kind, and includes any transaction which the Court finds in substance to amount to such an advance, but does not include—

(*a*) a deposit of money or other property in a Government Post Office Bank or in a Mysore Government Savings Bank or in any other bank or in a company or with a co-operative society;

(*b*) a loan to, or by, or a deposit with, any society or association registered under the Mysore Societies Registration Act, 1960 (Mysore Act 17 of 1960);

(*c*) a loan advanced by Government or by any local authority authorised by Government;

(*d*) a loan advanced by a co-operative society;

(*e*) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;

(*f*) a loan to or by an insurance company as defined in the Insurance Act, 1938 (Central Act IV of 1938);

(*g*) a loan to or by a bank;

(*h*) an advance of not less than three thousand rupees made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act XXVI of 1881) other than on the basis of a promissory note;

(*i*) except for the purposes of sections 26 and 28,—

(i) a loan to a trader;

(ii) a loan to a money-lender who holds a valid licence ; or

(iii) a loan by a landlord to his tenant for financing of crops or seasonal finance of not more than fifty rupees per acre of land held by the tenant ;

(10) " money-lender " means—

(i) an individual ; or

(ii) an undivided Hindu family ; or

(iii) a company ; or

(iv) an unincorporated body of individuals ;

who or which—

(*a*) carries on the business of money-lending in the State ; or

(*b*) has his or its principal place of such business in the State, but shall not include a bank ;

(11) " notification " means a notification published in the official Gazette ;

(12) " prescribed " means prescribed by rules made under this Act ;

(13) " principal " means in relation to a loan, the advance actually made to the debtor ;

(14) " Provident Fund " means a Provident Fund as defined in the Provident Funds Act, 1925 (Central Act XIX of 1925), and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act ;

(15) " recognised language " means the language of the Court ;

(16) " register " means a register of money-lenders maintained under section 4 ;

(17) " rules " means rules made under this Act ;

(18) " State " means the State of Mysore ;

(19) " suit to which this Act applies " means any suit or proceeding—

(*a*) for the recovery of a loan made after the date on which this Act comes into force ;

(*b*) for the enforcement of any security taken, or any agree ment made after the date on which this Act comes into force in respect of any loan made either before or after the said date ; or

(c) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date ;

(20) "trader" means a person who in the regular course of business buys and sells goods or other property, whether movable or immovable, and includes—

a wholesale or retail merchant,

a commission agent,

a broker,

a manufacturer,

a contractor,

a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause an "artisan" means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

3. **Appointment of Registrar General, Registrars and Assistant Registrars.**—The State Government may, by notification, appoint a Registrar General, Registrars and Assistant Registrars of Money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

4. **Register of money-lenders.**—Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders in such form as may be prescribed.

5. **Money-lenders to obtain licence.**—No person shall carry on the business of money-lending in the State except in accordance with the terms and conditions of a licence.

6. **Application for licence.**—(1) Every money-lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area within the limits of which the place where he intends to carry on the business of money-lending, or if he intends to carry on such business at more than one place in the area, the

principal place of such business, is situated. Such application shall contain the following particulars, namely :—

(*a*) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business ;

(*b*) if the application is by or on behalf of—

(i) an individual, the name and address of such individual

(ii) an undivided Hindu family, the names and addresses of the manager or the karnavan or the yajaman and the adult coparceners of such family;

(iii) a company, the names and addresses of the directors, and of the manager or principal officer managing it ;

(iv) an unincorporated body of individuals, the names and addresses of such individuals ;

(*c*) the area and the place or principal place of the business of money-lending in the State ;

(*d*) the name of any other place in the State where the business of money-lending is carried on or intended to be carried on ;

(*e*) whether the person signing the application has himself or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the company or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the State in the year ending on the 31st day of December immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name ;

(*f*) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

(*g*) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.

(2) The application shall be in writing and shall be signed,—

(*a*) (i) if the application is made by an individual, by the individual ;

(ii) if the application is made on behalf of an undivided Hindu family, by the manager or the karnavan or the yajaman, as the case may be, of such family;

(iii) if the application is made by a company or unincorporated body, by the managing director or any other person having control of its principal place of business in the territory of India or of its place of business in the area in which it intends to carry on the business; or

(*b*) by an agent authorised in this behalf by a power-of-attorney by the individual money-lender himself or the family, or the company or the unincorporated body, as the case may be.

(3) The application shall also contain such other particulars as may be prescribed.

(4) The application shall be accompanied by a licence fee at the following rates:—

(*a*) if the place at which the business of money-lending is to be carried on is not more than one.	ten rupees;
(*b*) if the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar.	ten rupees for the licence for the principal place of business and three rupees for the licence for each of the other places in the area:

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(5) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.

7. **Grant of licence and entry in register.**—(1) On receipt of an application under section 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.

(2) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the State, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.

8. Refusal of issue of licence.—(1) The grant of licence shall not be refused except on any of the following grounds :—

(*a*) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is disqualified by an order under section 16 from holding a licence;

(*b*) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence;

(*c*) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirements of this Act;

(*d*) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(i) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(ii) been found guilty of an offence under Chapter XVII or Chapter XVIII of the Indian Penal Code.

(2) The Registrar shall, before refusing a licence under sub-section (1), record the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (1), to the Registrar General whose decision shall be final.

9. Registrar's power to cancel licences.—(1) The Registrar may, during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant of licence.

(2) Before cancelling a licence under sub-section (1), the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(3) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (1), to the Registrar General whose decision thereon shall be final.

10. Term of licence.—A licence shall be valid from the date on which it is granted to the 31st day of December following:

Provided that where a money-lender holding a licence has made an application for a fresh licence before the date prescribed under sub-section (1) of section 6, for the succeeding year, such money-lender shall, notwithstanding the expiry of the term of his licence, be deemed to have a valid licence until orders are received by him on his application for the fresh licence.

11. Stay of suits by money-lenders not holding licence.—(1) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit to which this Act applies, filed by a money-lender, unless the Court is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender held a valid licence.

(2) If during the trial of any such suit, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require him to produce within a period of three months a licence on payment to the Registrar of all the arrears of the licence fees payable by him under this Act for the period commencing from the date on which he started the business of money-lending or the expiry of six months from the date on which this Act comes into force, whichever is later, together with such penalty, not exceeding five hundred rupees as the Court may direct:

Provided that when the Court is satisfied that the failure of the money-lender to obtain a licence was due to any reasonable cause, the Court may direct that no penalty as aforesaid or part of such penalty shall be paid by the money-lender.

(3) The Court may, on sufficient cause being shown, from time to time extend the period during which the money-lender shall be required to produce a licence.

(4) If the money-lender fails to produce the licence required under sub-section (2) within the period specified therein or within such period as may be extended under sub-section (3), the Court shall dismiss the suit. If the money-lender produces such licence within the aforesaid period, the Court shall proceed to hear the suit.

(5) Nothing in this section shall affect—

(*a*) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force ;

(*b*) the powers of an official receiver, an administrator or a Court under the provisions of the Mysore Insolvency Act, 1925, or other corresponding law in force in any area of the State, or of a liquidator under the Companies Act, 1956, to realise the property of a money-lender.

12. Entry in register and grant of licence to a money-lender directed to obtain licence under section 11.—Any money-lender who is required under sub-section (2) of section 11 to produce a licence shall make an application to the Registrar through the Assistant Registrar in the manner specified in section 6 and on receipt of such application, the Registrar may, subject to the provisions of section 8, and after making such inquiry as he deems fit, grant the money-lender on payment of the arrears of licence fee, and the penalty, if any, directed by the Court to be paid, a licence in the form and subject to the conditions specified in section 7 and direct the Assistant Registrar to enter the name of the money-lender in the register.

13. Application for cancellation of licence.—(1) Any person may, during the currency of a licence, file an application, to the Registrar for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 8 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding one hundred rupees as the Registrar may direct.

(2) On the receipt of such application and deposit, the Registrar shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct he may cancel the licence of the money-lender and may also direct the return of the deposit made under sub-section (1).

(3) If in the opinion of the Registrar, an application made under sub-section (1) is frivolous or vexatious, he may, out of the deposit made under sub-section (1), direct to be paid to the money-lender such amount as he deems fit as compensation.

(4) Any person aggrieved by an order of the Registrar under sub-section (2) or (3) may, within such time and on payment of such fee as may be prescribed, appeal to the Registrar General and the order of the Registrar General on such appeal shall be final.

14. Registrar and Assistant Registrar to have powers of Civil Court.—For the purposes of sections 7 and 13, the Registrar and Assistant Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters:—

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses; and

(*d*) proof of facts by affidavits.

15. Power of authorized officer to require production of record or documents.—For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorised by the State Government in this behalf, may require any money-lender or any person in respect of whom the Registrar, Assistant Registrar or the officer so authorised has reason to believe that he is carrying on the business of money-lending in the State, to produce any record or document in his possession which in his opinion is relevant for the purpose, and thereupon such money-lender or person shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may after reasonable notice at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record.

16. Court's power to cancel or suspend a licence.—(1) (i) A Court passing an order of conviction against a money-lender for an offence under this Act, or (ii) a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention

of any provision of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending,—

(*a*) may order that all the licences held by such money-lender in the State be cancelled or suspended for such period as it may think fit; and

(*b*) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a company or an unincorporated body, such family, company or body and also any person responsible for the management of the business of money-lending carried on by such family, company or body, to be disqualified from holding any licence in the State for such time as the Court may think fit:

Provided that no order or declaration shall be made under this sub-section unless a reasonable opportunity has been given to the person concerned to show cause against the order or declaration proposed to be made.

(2) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (*a*) or (*b*) of sub-section (1), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the Registrars by whom the licences were granted, for the purpose of entering such particulars in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(3) Any licence required by a Court for endorsement in accordance with sub-section (2) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine which may extend to five hundred rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

17. No compensation for suspension or cancellation of licence.—Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

18. Persons debarred from doing business during period of suspension or cancellation of licence.—A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall not during the period of suspension or cancellation, as the case may be, carry on the business of money-lending in the State.

19. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.—No person whose licence has been endorsed under section 16 or who has been disqualified from holding a licence shall apply for, or be eligible to hold a licence, without giving particulars of such endorsement or disqualification.

20. Duty of money-lender to keep accounts and furnish copies.—(1) Every money-lender shall keep and maintain a cash book and a ledger in such form and in such manner as may be prescribed.

(2) Every money-lender shall—

(*a*) deliver or cause to be delivered—

(i) to the debtor within thirty days from the date on which a loan is made, a statement in any recognised language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged :

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor;

(ii) to the Assistant Registrar, within the said period, a statement containing the particulars referred to in sub-clause (i);

(*b*) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(3) No money-lender shall receive any payment from a debtor on account of any loan without giving him a duly signed receipt for the payment.

(4) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.

21. Delivery of statement of accounts and copies thereof by money-lender.—(1) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show—

(i) the amount of principal and the amount of interest, separately, due to the money-lender;

(ii) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(iii) all payments credited first in the account of interest and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account of principal, in the alternative such of the payments credited first in the account of principal as the money-lender may determine and the remaining payments credited in the account of interest calculated on the basis of the decreased balance of principal and when the balance of interest is fully discharged the residue of the payments, if any, further credited in the account of principal;

(iv) the amount of principal and interest remaining unpaid.

The statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed:

Provided that no such statement shall be required to be delivered to a debtor if he is supplied by the money-lender with a pass book which shall be in the prescribed form and shall contain an up-to-date account of the transactions with the debtor.

The money-lender shall on or before the aforesaid date deliver or cause to be delivered a statement containing the particulars specified in clauses (i) to (iv) to the Assistant Registrar.

(2) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor or if the debtor so requires, to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (1).

(3) A money-lender shall, on a demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor, to the debtor, or if the debtor so requires, to any person specified in that behalf in the demand.

(4) For the purposes of this section "year" means the calendar year.

22. **Fees for certain statements supplied to debtors and Assistant Registrars.**—(1) A money-lender may recover from a debtor fees for the statements or a pass book supplied to him under sub-section (2) of section 20 or sub-section (1) of section 21 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-sections.

(2) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.

23. **Debtors not bound to admit correctness of accounts.**—A debtor to whom a statement of accounts or a pass book has been furnished under section 20 or 21 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

24. **Procedure of court in suits regarding loans.**—Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies,—

(*a*) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 20 and 21;

(*b*) if the Court finds that the provisions of section 20 or section 21 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts or a pass book in the prescribed form and manner, shall be held to have complied with the provisions of section 20 or section 21, as the case may be, in spite of any errors and omissions if the Court finds that such errors and omissions are not material or not fraudulent.

25. Provisions of certain sections not to apply to loans made by company or unincorporated body exempted by Government.— Nothing in sections 20 to 24 shall apply to loans advanced by any class of companies or unincorporated bodies which the State Government may by notification exempt from the operation of those sections.

26. Power of Court to limit interest recoverable in certain cases.— Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

27. Power of Court to direct payment of decretal amount by instalments.—The Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit.

28. Limitation on rates of interest.—(1) The State Government may from time to time by notification fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans.

(2) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1), shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

(3) If any money-lender charges or receives from a debtor interest at a rate exceeding the maximum rate fixed by the State Government under sub-section (1), he shall, for the purposes of section 39, be deemed to have contravened the provisions of this Act.

29. Prohibition of charge for expenses on loans by money-lenders.—No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed of such costs and reimbursement thereof; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

30. Notice and information to be given on assignment of loan.—(1) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest on such loan or the benefit of any agreement made or security taken in respect of such loan or interest, is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made,—

(*a*) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act;

(*b*) supply to the assignee all information necessary to enable him to comply with the provisions of this Act; and

(*c*) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be liable to indemnify any other person who is prejudiced by the contravention.

31. Application of Act as respects assignees.—(1) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him whether before or after the date on which this Act comes into force, or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

32. Reopening of transactions.—Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise,—

(*a*) reopen any transaction, or any account already taken between the parties;

(*b*) take an account between the parties;

(*c*) reduce the amount charged to the debtor in respect of any excessive interest;

(*d*) if on taking accounts it is found that the money-lender has received more than what is due to him, pass a decree in favour of the debtor in respect of such amount:

Provided that in the exercise of these powers, the Court shall not—

(i) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than six years from the date of the suit;

(ii) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section "excessive interest" means interest at a rate which contravenes any of the provisions of section 28.

33. Inquiry for taking accounts and declaring the amount due.—(1) Any debtor may make an application at any time to the Court, whether the loan has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

(2) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(3) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of sections 20 to 32 and section 35.

34. **Deposit in Court of money due to money-lender.**—(1) At any time a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(2) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(3) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue if any towards the principal.

(4) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue if any towards the principal.

35. **When interest to be paid for entire month.**—Notwithstanding any agreement between the parties or any law for the time being in force, when a statement is delivered or pass book is supplied to a debtor under section 21 or if accounts are taken under section 33, or a tender is made by a debtor to a money-lender in respect of a loan under section 34 before the sixteenth day of a calendar month, the interest due shall be calculated as payable for fifteen days of the said month, and if the statement is delivered or pass book is supplied or accounts are taken or tender is made on any subsequent day, then for the entire calendar month irrespective of the fact that such statement is delivered or pass book is supplied or such accounts are taken or such tender is made on any such day.

36. **Money-lenders to exhibit their names over shops.**—Every money-lender shall always keep exhibited over his shop or place of business, his name with the word 'money-lender' and its equivalent in Kannada.

37. Entry of wrong sum in bond, etc., to be an offence.—(1) No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution.

(2) Whoever contravenes the provisions of sub-section (1), shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

38. Penalty for molestation.—Whoever molests, or abets the molestation of, a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing,—

(*a*) obstructs or uses violence to or intimidates such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use of any such property, or

(*c*) loiters at or near a house or other place where such other person resides or works, or carries on business, or happens to be, or

(*d*) does any act calculated to annoy or intimidate such other person or the members of his family, or

(*e*) moves or acts in a manner which causes or is calculated to cause alarm or danger to the person or property of such other person,

shall be deemed to molest such other person:

Provided that a person who goes to the house or place referred to in clause (*c*) in order merely to obtain or communicate information shall not be deemed to molest.

39. General provision regarding penalties.—Whoever fails to comply with or acts in contravention of any provision of this Act,

shall, if no specific penalty has been provided for in this Act, on conviction, be punished—

(*a*) for the first offence with simple imprisonment which may extend to two months or with fine which may extend to five hundred rupees or with both, and

(*b*) for the second or subsequent offence with imprisonment which may extend to six months or with fine or with both.

40. Offences by Hindu Joint Family, Corporation, etc.—(1) If the person contravening any of the provisions of this Act is an undivided Hindu family, the person responsible for the management of the business of such family shall be deemed to be guilty of such contravention.

(2) (*a*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this clause shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*b*) Notwithstanding anything contained in clause (*a*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals, and

(*b*) "director" in relation to a firm means a partner in the firm.

41. Certain offences to be cognizable.—Offences punishable—

(*a*) under section 39 for contravening the provisions of section 5, and

(*b*) under section 38,

shall be cognizable.

42. Every officer to be public servant.—Every officer of the Government acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

43. Saving of laws relating to agriculturists' indebtedness.—Nothing in this Act shall affect any of the provisions of any enactment relating to relief of agriculturists' indebtedness.

44. Rules.—(1) The State Government may, after previous publication, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form of the register under section 4;

(*b*) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6;

(*c*) the form and conditions of the licence, and the procedure for a summary inquiry under section 7;

(*d*) the form of cashbook and ledger and the manner in which they should be maintained under sub-section (1) of section 20 and the other particulars to be prescribed under sub-section (4) of that section;

(*e*) the form of the statement of accounts and pass books to be furnished or delivered and the date before which it is to be furnished or delivered under sub-section (1), the fee to be paid under sub-section (2), and the sum of expenses to be paid under sub-section (3), of section 21;

(*f*) the rates at which and the manner in which fees may be recovered under section 22;

(*g*) the form of application and the fee to be paid under sub-section (1) of section 33;

(*h*) the period within which appeals under this Act have to be filed and the fee payable in respect of such appeals;

(*i*) any other matter which has to be or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the provisions of this Act.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

45. Repeal and savings.—The Bombay Money-lenders Act, 1946 (Bombay Act XXXI of 1947), as in force in the Bombay Area; the Coorg Money-lenders Act, 1939 (Coorg Act I of 1939), as in force in the Coorg District; the Hyderabad Money-lenders Act, 1349 F (Hyderabad Act V of 1349 Fasli), and the Hyderabad Money-lenders (Validity of Licenses) Act, 1956 (Hyderabad Act XLVIII of 1956), as in force in the Hyderabad Area; the Madras Debtors Protection Act, 1934 (Madras Act VII of 1935) as in force in the Madras Area and the Mysore Money-lenders Act, 1939 (Mysore Act XII of 1939) as in force in the Mysore area, are hereby repealed:

Provided that section 6 of the Mysore General Clauses Act, 1899 (Mysore Act III of 1899) shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

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